

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

EVA B. VELLAI-PALOTAY and )  
CHRISTOPHER JAMES PALOTAY, )  
Plaintiffs, )  
v. ) Civil Action No. 07-1467  
CITY OF MONONGAHELA )  
PENNSYLVANIA, WASHINGTON )  
COUNTY, PENNSYLVANIA, )  
MONONGAHELA AREA LIBRARY, )  
Defendants. )

MEMORANDUM ORDER

Gary L. Lancaster,  
District Judge.

October 28, 2007

Before the court are plaintiffs' motion for leave to proceed in forma pauperis and pro se complaint. For the reasons that follow, plaintiffs' motion will be granted, and their complaint dismissed.

I. BACKGROUND

Plaintiffs' pro se complaint is somewhat unfocused; however, they complain about a librarian at the Monongahela Area Library who treated them in a rude and disrespectful manner and would not allow them to check out books they had ordered because they do not have a telephone number.

## II. DISCUSSION

### A. Motion for Leave to Proceed In Forma Pauperis

We first address plaintiffs' motion for leave to proceed in forma pauperis.

Congress has authorized the federal courts to allow a party to proceed with the commencement, prosecution, or defense of an action in forma pauperis. 28 U.S.C. § 1915(a). In doing so, Congress recognized the public policy concern that persons who are unable to pay fees or give security should be permitted to prosecute or defend actions that affect their legal rights. Because it appears that plaintiffs are unable to pay the costs associated with commencing this action, we will grant them leave to proceed in forma pauperis.

### B. Complaint

Next, we turn to plaintiffs' complaint.

In enacting section 1915, Congress granted the courts an extra measure of authority when evaluating an in forma pauperis action. Under that section, the court shall dismiss such an action if it determines that the action is frivolous, or fails to state a claim on which relief may be granted. Id. at §§ 1915(e)(2)(b)(I), (ii). If it so finds, the court may dismiss a claim sua sponte, even before the summons issues. Johnstone v. United States, 980 F. Supp. 148, 150 (E.D.Pa. 1997).

A complaint is frivolous if it is "based on an indisputably meritless legal theory," or sets forth "clearly baseless" factual contentions. Neitzke v. Williams, 490 U.S. 319, 327 (1989). This is clearly such a case. Moreover, plaintiffs have failed to allege, directly or indirectly, explicitly or implicitly, any basis for federal court jurisdiction of their claim. See ALA, Inc. v. CCAIR, Inc., 29 F.3d 855, 859 (3d Cir. 1994).

### III. CONCLUSION

For the foregoing reasons, the court will grant plaintiffs' motion for leave to proceed in forma pauperis, but will dismiss their complaint as frivolous and as failing to state a claim on which relief may be granted. Additionally, the case will be dismissed for failure to assert any viable federal court jurisdiction.

An appropriate order follows.

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Defendants. )

ORDER

AND NOW, this 30<sup>th</sup> day of October, 2007, upon  
consideration of plaintiffs' motion for leave to proceed in forma  
pauperis, said motion is hereby GRANTED. It is FURTHER ORDERED  
that plaintiffs' complaint is hereby DISMISSED, with prejudice.

BY THE COURT:



cc: All Counsel of Record